

COPY

UNITED STATES DISTRICT COURT  
DISTRICT OF HAWAII

DENNIS CLAYPOOL, individually ) Civil No. CV04 00570 ACK KSC  
and as Guardian Ad Litem for )  
KRISTEN CLAYPOOL, a minor, ) DEPOSITION OF  
SHERYL CLAYPOOL, SCOTT ) REINA O'NEILL  
CLAYPOOL, and KRISTEN CLAYPOOL) March 31, 2005  
1:30 p.m.

Plaintiffs,

vs.

CAPTAIN ANDY'S SAILING, INC., )  
BLUE DOLPHIN CHARTERS, LTD. )  
and BLUE DOLPHIN DIVING, INC., )

Defendants.

MATTHEW ISHAM, individually ) Civil No. CV04-00559 ACK KSC  
and as Guardian Ad Litem for )  
HAYDEN ISHAM, a minor, )  
ROXANNE BEST ISHAM, )

Plaintiffs,

vs.

BLUE DOLPHIN CHARTERS, LTD. )  
and BLUE DOLPHIN DIVING, LTD., )  
CAPTAIN ANDY'S SAILING, INC., )

Defendants.

In the Matter of ) Civil No. CV05-00017 HG LEK  
The Complaint of CAPTAIN )  
ANDY'S SAILING, INC., a Hawaii )  
corporation, as pro hac vice )  
owner, and EVANS PACIFIC, LTD., )  
a Hawaii corporation, as owner )  
of M/V SPIRIT OF KAUAI, O.N. )  
995776, for exoneration from )  
or limitation of liability. )

-continued-

EXHIBIT 10

-continued-

IN THE MATTER OF THE COMPLAINT) Civil No. CV05-00037 HG BMK  
OF THE BLUE DOLPHIN CHARTERS, )  
LTD. AND TERRY DONNELLY AS )  
OWNERS OF THE VESSEL M/V BLUE )  
DOLPHIN, O/N 1082212, FOR )  
EXONERATION FROM AND/OR )  
LIMITATION OF LIABILITY. )

DEPOSITION OF REINA O'NEILL

Taken on behalf of Plaintiffs Dennis Claypool, individually  
and as guardian ad litem for Kristen Claypool, a minor,  
Sheryl Claypool, Scott Claypool, and Kristen Claypool at  
Pacific Guardian Center, Conference Room B for use by  
Pacific Reporting Services Unlimited, Suite 1470, Makai  
Tower, 733 Bishop Street, Honolulu, Hawaii, commencing at  
1:30 p.m. on March 31, 2005, pursuant to Notice.

Transcribed by: WILLIAM T. BARTON, RPR, CSR #391  
Court Reporter, State of Hawaii

PACIFIC REPORTING SERVICES UNLIMITED  
Suite 1470, Makai Tower  
733 Bishop Street  
Honolulu, Hawaii 96813  
(808) 524-PRSU

1 time. I was getting Matt up on the deck. And I was  
2 dealing with Matt. I didn't see Mr. Claypool until he was  
3 at the back deck, so I have no idea who brought him, if he  
4 went on his own accord, or anything like that.

5 Q. But the kayaker that you were talking to at that  
6 point was already alongside the Spirit?

7 A. After he, apparently, heard what was happening in  
8 the water, I saw him kayaking out. But after that, I --

9 Q. Worried about Matt?

10 A. Exactly.

11 Q. Mr. Lesser, I'm sure, will ask you about what you  
12 did with Matt. My concern is focused on Mr. Claypool. For  
13 efficiency sake, I will ask you about that.

14 Did you assist Mr. Claypool at all after he came  
15 aboard?

16 A. After, yes.

17 Q. All right. And when were you first able to turn  
18 your attention to Mr. Claypool?

19 A. Well, he was being dealt with. I was dealing  
20 with Matt. I was getting the tourniquet line. After we  
21 were in transit, I had to go back to Mr. Claypool and  
22 tighten the tourniquet.

23 Q. And when you say "after we were in transit," you  
24 were making your way towards the Pride of Aloha?

25 A. Yes, sir.

1 A. Oh, yes. It's usually miles.

2 Q. As soon as they can see you?

3 A. As soon as they can see us, they are usually on.

4 Q. But Lucky Lady and Blue Dolphin never did that  
5 before the accident?

6 A. Not to my knowledge, no.

7 Q. All right. Going back then to the day of the  
8 accident, you said that at some point in the trip out to  
9 the Pride, you came over to tighten the tourniquet on  
10 Mr. Claypool's arm?

11 A. Yes.

12 Q. Did you get a chance to look at his wounds?

13 A. You know what? Not really. I was just focused  
14 on the tourniquet. I was just trying to tighten it.

15 Q. Are you in a position at all to tell us anything  
16 at all about Mr. Claypool's wounds?

17 A. No.

18 Q. Captain Dave told us earlier that he actually  
19 feared for both Dennis and Matt's lives while he was  
20 running them out to the Pride.

21 Do you recall personally sharing that concern?

22 A. Oh, yes.

23 Q. For both guys?

24 A. Yes.

25 Q. Was the crew able to do anything for Dennis,

1 other than apply the tourniquet to his arm?

2 A. We just -- applied our knowledge. We tried to  
3 make him as comfortable as possible. We tried to calm him  
4 down, you know. Obviously, our main concern is to stop the  
5 bleeding.

6 Q. Did he remain conscious throughout the trip?

7 A. Yes, he was kind of going in and -- he was in and  
8 out, and I was trying to take care of everything.

9 Yes. Every time that I went up to talk to him,  
10 he was conscious and was able to talk back to me. We were  
11 trying to keep both of them up.

12 Q. Why do you do that?

13 A. You don't want them to fall asleep.

14 Q. Now, do you have CPR or lifesaving training?

15 A. Yes. CPR, first aid.

16 Q. Tell me about that.

17 A. CPR, first aid.

18 Q. Are you certified?

19 A. Yes.

20 Q. By?

21 A. I got certified by Pat Derkin, our safety  
22 officer.

23 Q. Was the certification you got from Pat still  
24 current back in July of 2004?

25 A. Oh, yeah.

1 Q. Again, an estimate, but I've got to ask you.

2 Can you give me your best estimate as to how long  
3 it took you to get the injured divers from the spot where  
4 you picked them up out to the Pride?

5 A. It seemed like an eternity. But you know what?  
6 I really don't know. At that time, you're not concerned  
7 with time. You're concerned with the people who need to be  
8 helped.

9 Q. I understand. And Captain Dave estimated that he  
10 thought it might have been a half hour or more.

11 Does that sound about right?

12 A. That sounds about right.

13 Q. Did you assist in getting the injured divers  
14 aboard the Pride?

15 A. Yes, I did.

16 Q. How did the Spirit approach the Pride? Do you  
17 recall?

18 A. Yeah. We actually went -- we went port to port.  
19 The Pride of Aloha was turned towards -- actually, we were  
20 port to port.

21 Q. So you guys were headed in reciprocal directions?

22 A. Yes. Pride of Aloha was facing towards Kauai,  
23 and we were facing out, and we were like this (indicating).

24 Q. Did you have to disembark the divers through a  
25 sea door, seaport in the Pride?

1 A. Yes.

2 Q. How far above the water line was that seaport?

3 A. We were moving up and down. I mean, the  
4 vessels -- the Pride of Aloha is a huge, huge cruise ship.  
5 So, I mean, the Spirit is a big boat. But we looked like  
6 an ant, and we were just going up and down. So I can't  
7 even guess.

8 Q. The rolling moments on the vessels are completely  
9 different?

10 A. Yes.

11 Q. And it requires --

12 A. Skills trainer.

13 Q. Pinpoint timing to take advantage of the relative  
14 motions?

15 A. Yes.

16 Q. Did that make it difficult for you guys to get  
17 the two injured divers aboard to the Pride?

18 A. Yes.

19 Q. And how long did that take?

20 A. I have -- again, I have no idea on the time.

21 Q. Did they get across to the Pride in a Stokes  
22 basket on their own power? Was somebody helping them? How  
23 did that happen?

24 A. I remember Mr. Claypool actually stood up and  
25 stepped across himself, which was very scary.

1 other. I don't know where the passengers were at that  
2 time. We were trying to keep everybody who didn't need to  
3 be there, away.

4 Q. Did anybody from the Spirit accompany the divers  
5 on to the Pride?

6 A. No.

7 Q. Now, do you recall that you also picked up --

8 A. Well, Scott --

9 Q. Scott Claypool?

10 A. Yeah. Scott actually went with his dad. And  
11 then he came back on Spirit. Like he went to go with  
12 his -- went to go be with his dad, and then, apparently,  
13 they didn't want or need him on there, and so he came back  
14 on the Spirit.

15 Q. Did you have any dealings with Scott Claypool  
16 during the voyage out to the Pride?

17 A. Yeah, I was making sure that he was okay. I was  
18 telling him that his dad was going to be okay. I was just  
19 trying to calm him down.

20 Q. How did he seem to you?

21 A. Shocked.

22 Q. All right. Do you remember Scott Claypool taking  
23 a meal while his dad was being tended to on the aft deck of  
24 the Spirit?

25 A. After his dad was dropped off, yes. He seemed a

1 the tourniquet. Matt knew it was pretty bad, but we were  
2 trying to keep the severity of the wounds quiet.

3 Q. Was Matt talking to the people who were assisting  
4 him?

5 A. He was talking to me, yes.

6 Q. Did he express any concern about his diver,  
7 Mr. Claypool?

8 A. Yes. The whole time.

9 Q. He was worried about his student?

10 A. Yes, he was.

11 Q. Did you reassure him that things were okay.

12 A. I reassured him that everything possible was  
13 being done.

14 Q. And were you trying to keep him awake too?

15 A. Yes, I was.

16 Q. And did he ever drift off during the trip out?

17 A. He tried to.

18 Q. And you woke him up?

19 A. Yes, sir.

20 Q. And kept him. So you kept him conscious.

21 Did he say anything else that you can remember on  
22 the trip out?

23 A. Yeah. He wanted to call his wife. And he wanted  
24 a paper to write everything down.

25 Q. So he felt it was that serious that he might die

1 on the trip out?

2 A. That wasn't an option.

3 Q. You weren't going to let it happen?

4 A. No.

5 MR. LESSER: Congratulations. You didn't let it  
6 happen. I'll pass. Thank you.

7 MR. MAYES: I don't have any questions -- well.

8 MS. BLACK: Short break?

9 THE DEPONENT: I'm okay.

10 EXAMINATION

11 BY MR. MAYES:

12 Q. I'm David Mayes, and I also represent Matt Isham  
13 on the defense side from Captain Andy's complaint. I  
14 apologize if you answered these questions already.

15 On any trip when you were moored at the anchorage  
16 area at Mokol'e, did you see any dive flags in the water at  
17 any time before the accident?

18 A. No, I did not.

19 Q. Not once?

20 A. No.

21 Q. You were aware of divers being in the water at  
22 that time, though, right?

23 A. Divers, you knew, would be in the water, yes.

24 Q. Did you ever see any divers under the water? Was  
25 it clear enough to see dive groups in the water?

## CERTIFICATE

STATE OF HAWAII )

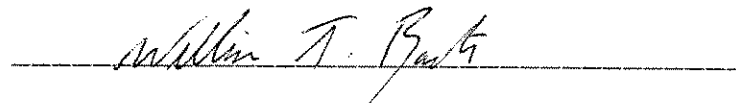
) SS.

COUNTY OF HONOLULU )

I, WILLIAM T. BARTON, RPR, Certified Shorthand Reporter, State of Hawaii, do hereby certify that on March 31, 2005 at 1:30 p.m. there appeared before me REINA O'NEILL, the witness whose deposition is contained herein; and that prior to being examined was duly sworn; that I am neither counsel for any of the parties herein, nor interested in any way in the outcome of this action;

That the deposition herein was by me taken down in machine shorthand and thereafter reduced to print via computer-aided transcription under my supervision; that the foregoing represents a complete and accurate transcript of the testimony of said witness to the best of my ability.

Dated this 11th day of April 2005 at Honolulu, Hawaii.



WILLIAM T. BARTON, CSR No. 391

Notary Public, State of Hawaii

My Commission expires August 7, 2005